

JUDGE CASEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

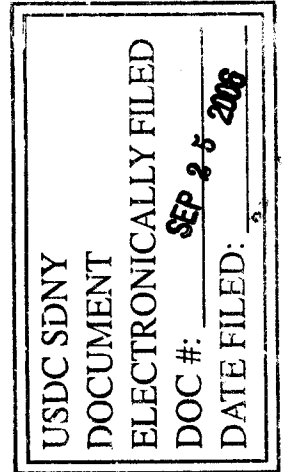
UNITED STATES OF AMERICA : INDICTMENT

-v.- :

S1 06 Cr. 844

MAYRA FERNANDEZ,
ESMELIN RODRIGUEZ, and
FNU LNU,
a/k/a "Caballito,"

Defendants.



COUNT ONE

The Grand Jury charges:

1. In or about September 2001, in the Southern District of New York and elsewhere, MAYRA FERNANDEZ, ESMELIN RODRIGUEZ and FNU LNU, a/k/a "Caballito," the defendants, and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit robbery, as that term is defined in Title 18, United States Code, Section 1951(b)(1), and would thereby have obstructed, delayed, and affected commerce and the movement of articles and commodities in commerce, as that term is defined in Title 18, United States Code, Section 1951(b)(3), to wit, MAYRA FERNANDEZ, ESMELIN RODRIGUEZ and FNU LNU, a/k/a "Caballito," the defendants, and others known and unknown, conspired to commit a robbery of the occupants of an apartment located at 811 East 178th Street, Bronx, New York, whom

FERNANDEZ, RODRIGUEZ, FNU LNU, a/k/a "Caballito," and others believed to be engaged in narcotics trafficking.

Overt Acts

2. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. In or about September 2001, MAYRA FERNANDEZ, the defendant, was advised by FNU LNU, a/k/a "Caballito," the defendant, that an individual living in an apartment (the "Apartment") in a building located at 811 East 178th Street, in the Bronx, New York, possessed narcotics and narcotics proceeds.

b. In or about September 2001, MAYRA FERNANDEZ and ESMELIN RODRIGUEZ, the defendants, and others known and unknown, planned an armed robbery of an individual living in the Apartment in order to obtain narcotics and narcotics proceeds.

c. In or about September 2001, MAYRA FERNANDEZ, the defendant, traveled to the Apartment and met with one of the occupants of the Apartment.

d. On or about September 25, 2001, ESMELIN RODRIGUEZ, the defendant, drove a van with other co-conspirators not named as defendants herein, to the Apartment.

e. On or about September 25, 2001, a co-conspirator not named as a defendant herein shot and killed an

individual inside of the Apartment.

(Title 18, United States Code, Section 1951.)

COUNT TWO

The Grand Jury further charges:

3. On about September 25, 2001, in the Southern District of New York and elsewhere, MAYRA FERNANDEZ, ESMELIN RODRIGUEZ and FNU LNU, a/k/a "Caballito," the defendants, and others known and unknown, unlawfully, willfully, and knowingly committed a robbery, as that term is defined in Title 18, United States Code, Section 1951(b)(1), and thereby obstructed, delayed, and affected commerce and the movement of articles and commodities in commerce, as that term is defined in Title 18, United States Code, Section 1951(b)(3), to wit, FERNANDEZ, RODRIGUEZ, FNU LNU, a/k/a "Caballito," and others known and unknown, committed a robbery of individuals in an apartment building located at 811 East 178th Street in the Bronx, New York, and obtained and attempted to obtain narcotics and narcotics proceeds.

(Title 18, United States Code, Sections 1951 and 2.)

COUNT THREE

The Grand Jury further charges:

4. In September 2001, in the Southern District of New York and elsewhere, MAYRA FERNANDEZ, ESMELIN RODRIGUEZ and FNU LNU, a/k/a "Caballito," the defendants, and others known and

unknown, unlawfully, intentionally and knowingly did combine, conspire, confederate and agree together and with each other to violate the narcotics laws of the United States.

5. It was a part and an object of the conspiracy that MAYRA FERNANDEZ, ESMELIN RODRIGUEZ and FNU LNU, a/k/a "Caballito," the defendants, and others known and unknown, unlawfully, intentionally and knowingly would and did distribute and possess with intent to distribute a controlled substance, to wit, 1 kilogram and more of mixtures and substances containing a detectable amount of heroin, in violation of Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).

Overt Act

6. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt act, among others, was committed in the Southern District of New York and elsewhere:

a. On or about September 25, 2001, MAYRA FERNANDEZ, ESMELIN RODRIGUEZ and FNU LNU, a/k/a "Caballito," the defendants, attempted to rob an individual whom they believed possessed at least one kilogram of heroin.

(Title 21, United States Code, Section 846.)

COUNT FOUR

The Grand Jury further charges:

7. On or about September 25, 2001, in the Southern District of New York and elsewhere, MAYRA FERNANDEZ, ESMELIN

RODRIGUEZ and FNU LNU, a/k/a "Caballito," the defendants, the defendants, during and in relation to a crime of violence and a drug trafficking crime for which they may be prosecuted in a court of the United States, to wit, the crimes charged in Counts One, Two and Three of this Indictment, used, carried and discharged a firearm, and aided and abetted the use, carrying and discharge of a firearm, and also possessed a firearm and aided and abetted the possession of a firearm in furtherance of such crimes.

(Title 18, United States Code,
Sections 924(c)(1)(A)(iii) and 2.)

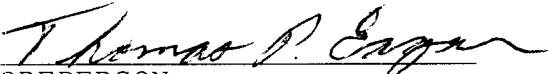
COUNT FIVE

The Grand Jury further charges:

8. On or about September 25, 2001, in the Southern District of New York, MAYRA FERNANDEZ, ESMELIN RODRIGUEZ and FNU LNU, a/k/a "Caballito," the defendants, unlawfully, willfully, and knowingly, used and carried a firearm, and aided and abetted the use and carrying of a firearm, during and in relation to a crime of violence and a drug trafficking crime for which they may be prosecuted in a court of the United States, namely, the crimes charged in Counts One, Two and Three of this Indictment, and, in the course of such crime caused the death of a person through the use of a firearm, which killing is murder as defined in Title 18, United States Code, Section 1111, in that FERNANDEZ, RODRIGUEZ and FNU LNU, a/k/a "Caballito," participated in an attempted

robbery of Marciano Victorio, during which attempted robbery Marciano Victorio was shot and killed, in the vicinity of 811 East 178th Street, Bronx, New York.

(Title 18, United States Code, Sections 924(j) and 2.)


FOREPERSON


MICHAEL J. GARCIA
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

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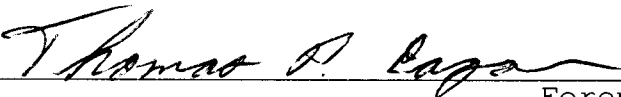
INDICTMENT

S1 06 Cr.

(18 U.S.C. §§ 1951, 924(c), 924(j) and 2,
and 21 U.S.C. § 846)

MICHAEL J. GARCIA
United States Attorney.

A TRUE BILL


Foreperson.
